

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

VICTOR S. MORALES,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 03-12344-GAO
	)	
MICHAEL MALONEY, et al.,	)	
	)	
Defendants.	)	

PROCEDURAL ORDER

Plaintiff Victor Morales, a Massachusetts-convicted inmate currently confined at Sussex One State Prison in Waverly, Virginia, has submitted a complaint concerning his confinement at that institution. Morales did not pay the \$150.00 filing fee for this action, nor did he submit a motion for waiver of prepayment of the filing fee with a certified prison account statement.

ANALYSIS

Plaintiff Must Either Pay the Filing  
Fee or Submit a Fee Waiver Application  
with a Certified Prison Account Statement

A prisoner filing a complaint in this Court must either (1) pay the \$150.00 filing fee for such actions or (2) file an application to proceed in forma pauperis with a certified prison account statement. See 28 U.S.C. § 1914 (\$150.00 filing fee); § 1915 (proceedings in forma pauperis). For

the convenience of litigants, this Court provides a standardized form entitled "Application to Proceed Without Prepayment of Fees and Affidavit" for such applications.

Because plaintiff has not submitted the filing fee or an application for waiver of prepayment of the filing fee with a certified prison account statement, he shall be granted additional time to do so. See 28 U.S.C. § 1915(a)(1). If plaintiff fails to timely pay the filing fee or to submit an application with a certified prison account statement, this action will be dismissed without prejudice.<sup>1</sup>

#### CONCLUSION

ACCORDINGLY, plaintiff is directed to either pay the \$150.00 filing fee or submit an application to proceed without prepayment of the filing fee with a certified prison account statement within 42 days of the date of this Order or this action shall be

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<sup>1</sup>Because plaintiff currently is incarcerated, he is informed that the submission of an application to proceed without prepayment of fees does not relieve him from his obligation to pay the full amount of the filing fee; it simply allows him to proceed without pre-payment of the entire filing fee up-front. 28 U.S.C. § 1915(b)(1), (2). If plaintiff submits a certified copy of his prison account statement, the Court will direct the appropriate prison official to withhold from plaintiff's prison account and pay to the Court an initial payment towards the \$150.00 filing fee. The appropriate prison official will also be directed to collect monthly payments from plaintiff's prison account on a continuing basis until such time as the \$150.00 statutory filing fee is paid in full. Id.

dismissed without prejudice.

The Clerk is directed to send petitioner an Application to Proceed Without Prepayment of Fees and Affidavit with this Order.

SO ORDERED.

Dated at Boston, Massachusetts, this 9th day of January, 2004.

s/ George A. O'Toole, Jr. \_\_\_\_\_  
GEORGE A. O'TOOLE, JR.  
UNITED STATES DISTRICT JUDGE